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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

Case 3:23-md-03084-CRB

MDL No. 3084

Honorable Charles R. Breyer

JURY TRIAL DEMANDED

This Document Relates to:

*K.J. v. Uber Technologies, Inc., et al., No.
3:24-cv- 09059-CRB*

*B.M. v. Uber Technologies, Inc., et al., No.
3:25-cv- 00982-CRB*

*K.G. v. Uber Technologies, Inc., et al., No.
3:25-cv- 01962-CRB*

*TA.W. v. Uber Technologies, Inc., et al.,
No. 3:25-cv- 01967-CRB*

**PLAINTIFFS' RESPONSE TO UBER'S
MOTION TO DISMISS CASES FOR
FAILURE TO COMPLY WITH COURT
ORDER**

Date: August 22, 2025

Time: 10:00 a.m.

Courtroom: 6 – 17th Floor

I. INTRODUCTION

On July 16, 2025, Defendants filed a Motion to Dismiss cases of Plaintiffs who did not file a Plaintiff Fact Sheet (“PFS”) in connection with Pretrial Order (“PTO”) 10. (Doc. 3493). Counsel acknowledges and understands that under PTO 10, the Court created procedures and

1 deadlines to produce a PFS. Counsel has and continues to diligently comply with discovery
2 obligations. Plaintiffs can become unavailable for a variety of reasons during litigation,
3 especially when said plaintiff is the survivor of a sexual assault by a stranger. Counsel was able
4 to produce the PFS for one of the missing claimants and it was appropriately served on defense.
5 Counsel continues to try to obtain a completed PFS from the four outstanding clients.

6 7 **II. ARGUMENT**

8 a. Counsel has produced a PFS for *B.M. v. Uber Technologies, Inc., et al., No. 3:25-cv-*
9 *00982-CRB* and their claim should therefore be removed from consideration of
10 Defendant's Motion, rendering their inclusion moot as to PTO 10.

11 b. The Court should deny Uber's Motion to Dismiss as procedurally improper.

12 Uber inappropriately filed its motion as a motion to dismiss and must be denied as it is
13 procedurally improper. Uber has filed their motion as a procedural tool to compel Plaintiffs to
14 justify their actions or inactions before the Court as seen in its "[Proposed] Order Regarding Motion
15 to Dismiss Cases for Failure to Comply with Court Order" (hereinafter referred to as "Proposed
16 Order"). See: *Laborers' Internat. Union of North America v. El Dorado Landscape Co.*, 208
17 Cal.App.3d 993 (1989). Uber's Proposed Order suggests the procedure effectively telling Plaintiffs
18 to explain why they are delayed in their PFS production, in sum, a tool to address a compliance
19 issue in this litigation. As discussed in *Amjadi v. Brown*, a motion to dismiss filed in lieu of a
20 motion to show cause may be procedurally improper and subject to challenge. 68 Cal.App.5th 383
21 (2021).

22 c. The Court should not dismiss these cases with prejudice.

23 In the event the Court is inclined to grant Uber's Motion to Dismiss, it cannot dismiss with
24 prejudice in this context. Dismissing with prejudice, goes against the Malone factors as discussed
25 by other Plaintiffs and Uber. Here, Plaintiffs say the quiet commentary out loud: dismissing with
26
27
28

1 prejudice is premature as these are survivors of sexual assault speaking out against one of the largest
2 corporations on the planet.

3 **III. CONCLUSION**

4 For the foregoing reasons, Plaintiffs respectfully request this Court DENY Uber's Motion
5 to Dismiss as procedurally improper. In the alternative, Plaintiffs request that *B.M. v. Uber*
6 *Technologies, Inc., et al., No. 3:25-cv-00982-CRB* be removed from Defendants' Motion to
7 Dismiss as having fulfilled her obligation under PTO 10 and that plaintiffs NO PFS should not be
8 dismissed with prejudice.

9
10 Dated: July 30, 2025

11 /s/ Sommer D. Luther
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CERTIFICATE OF SERVICE

I hereby certify that, on July 30, 2025, I electronically filed the following with the Clerk of the Court using the CM/ECF system, which will send notification of such filing via electronic mail to all counsel of record as maintained in the CM/ECF electronic system.

Dated: July 30, 2025

/s/ Sommer D. Luther
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PROOF OF SERVICE

I, the undersigned, declare: I am a citizen of the United States, over 18 years of age and not a party to the within action. My business mailing address is 940 Lincoln Street, Denver, CO 80203.

On the date specified below, I served a copy of the foregoing document described as:

**PLAINTIFFS' RESPONSE TO UBER's MOTION TO DISMISS CASES FOR
FAILURE TO COMPLY WITH COURT ORDER**

To be served by providing a true copy thereof addressed to each of the persons named below:

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed July 30, 2025 in Denver, Colorado.

/s/ Theresa Fryan
Theresa Fryan
Paralegal